

KUNKEL TRANSPORTATION SERVICES, INC.

425 13th Street, N.W., Suite 523  
Washington, D.C. 20004

13017 (202) 783-3698  
File (202) 783-3645

RECORDATION NO. ....

No. 1-086A094

Date MAR 27 1981

Fee \$ 150.00

CAROLYN H. KUNKEL  
President

TRANSPORTATION INFORMATION  
STATUTORY AGENCY SERVICE

MAR 27 1981 -4 00 PM

13017 INTERSTATE COMMERCE COMMISSION  
RECORDATION NO. .... Filed 1425

March 27, 1981

ICC Washington, D. C.  
13017

RECORDATION NO. .... Filed 1425

MAR 27 1981 -4 00 PM  
INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

13017

RECORDATION NO. .... Filed 1425

Mrs. Agatha L. Mergenovich  
Secretary  
Interstate Commerce Commission  
Washington, D. C. 20423

MAR 27 1981 -4 00 PM

INTERSTATE COMMERCE COMMISSION

Dear Madam:

Enclosed are the following for recordation with the Interstate  
Commerce Commission:

Lease Financing Agreement, dated as of January 1, 1981, by and  
among Valley Bank Leasing, Inc., First Security Bank of Rock  
Springs, First Security State Bank, State of Wisconsin Investment  
Board and First Security Bank of Utah, N.A.

Equipment Lease Agreement by and between a trust (created under  
the Trust Agreement dated as of January 1, 1981 between First  
Security State Bank and the beneficiaries thereof) and Southern  
Pacific Transportation Company

Assignment of Lease by and between First Security State Bank as  
Owner-Trustee, and State of Wisconsin Investment Board

Consent and Agreement, dated January 1, 1981, from Southern  
Pacific Transportation Company to State of Wisconsin Investment  
Board.

Check for the recordation fee is attached.

Yours truly,

*Carolyn H. Kunkel*

RECORDATION OR

MAR 27 3 55 PM '81

RECEIVED

*Ed Andrews*  
*Dear Agatha*

BENESCH, FRIEDLANDER, COPLAN & ARONOFF  
ATTORNEYS AT LAW

1100 CITIZENS BUILDING  
CLEVELAND, OHIO 44114

AREA CODE 216  
896-1600

CABLE ADDRESS  
"BFCA"

March 30, 1981

MORTON M. STOTTER  
MORTON D. BARRISCH  
COUNSEL

JEROME M. FRIEDLANDER  
OF COUNSEL

ALFRED A. BENESCH  
(1878-1973)

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BERNARD D. GOODMAN  
ROBERT A. GOODMAN  
NORMAN W. GUTMACHER  
PETER R. HARWOOD  
MICHAEL T. HONOHAN  
EDWARD KANCLER  
ELLIOT M. KAUFMAN  
MARVIN KELNER  
ALLAN D. KLEINMAN  
RICHARD O. MARGOLIS  
RICHARD L. PHILLIPS  
GEOFFREY J. PORTER  
HOWARD A. STEINDLER  
JEFFREY L. WEILER  
MARY BETH BALLARD

IRVING BERLINER  
GARY B. BILCHIK  
KENNETH A. BRAVO  
SPENCER I. BROWNE  
NORMAN S. BUCKVAR  
EDWARD W. COCHRAN  
MARY ROBIN CRAIG  
LESLIE J. CROLAND  
GREGORY J. EDGENHOUSE  
COLLEEN M. FLYNN  
HARRY G. GRAHAM  
RICHARD L. GROSSMAN  
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ARTHUR KORZEC  
HAROLD E. LEIDNER  
ABRAHAM LIEBERMAN  
LAURENCE P. LUBKA  
H. JEFFERSON MEGARGEL II  
VALENTINA SORO  
FRED SIEGEL  
GAIL E. SINDELL  
RICHARD M. STONE  
RUSSELL B. TURELL

Ms. Mildred Lee  
ICC  
12th Street and Constitution  
Avenue, N.W.  
Room 2303  
Washington, D.C. 20423

Re: 1981 Southern Pacific Lease Transaction

Dear Ms. Lee:

Pursuant to our telephone conversation of today, the following are the parties listed in the documents in connection with the above-referenced transaction:

LEASE FINANCING AGREEMENT

1. First Security State Bank - Lessor  
79 South Main Street  
Salt Lake City, Utah 84125  
Attention of Corporate Trust Department
2. First Security Bank of Rock Springs - Beneficiary  
79 South Main Street  
Salt Lake City, Utah 84111  
Attention of C. S. Cummings
3. Valley Bank Leasing, Inc. - Beneficiary  
c/o Valley National Bank  
234 North Central - Suite 522  
Phoenix, Arizona 85004  
Attention of Allen E. Wilson
4. State of Wisconsin Investment Board - Lender  
244 West Washington Avenue  
Madison, Wisconsin 53702  
Attention of Mark Ulivich

Ms. Mildred Lee  
March 30, 1981  
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5. First Security Bank of Utah, N.A. - Agent  
79 South Main Street  
Salt Lake City, Utah 84125  
Attention of Randy Marchant

EQUIPMENT LEASE AGREEMENT

1. Southern Pacific Transportation Company - Lessee  
One Market Plaza  
San Francisco, California 94111  
Attention of Madeleine Sloane
2. First Security State Bank - Lessor  
79 South Main Street  
Salt Lake City, Utah 84125  
Attention of Corporate Trust Department

ASSIGNMENT OF LEASE

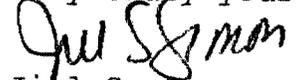
1. First Security State Bank - Lessor  
79 South Main Street  
Salt Lake City, Utah 84125  
Attention of Corporate Trust Department
2. State of Wisconsin Investment Board - Lender  
244 West Washington Avenue  
Madison, Wisconsin 53702  
Attention of Mark Ulivich

CONSENT AND AGREEMENT

1. Southern Pacific Transportation Company - Lessee  
One Market Plaza  
San Francisco, California 94111  
Attention of Madeleine Sloane
2. State of Wisconsin Investment Board - Lender  
244 West Washington Avenue  
Madison, Wisconsin 53702  
Attention of Mark Ulivich

Please index the documents under the first party listed.  
If you have any further questions, please feel free to contact the undersigned. I am sorry for any inconvenience caused in connection with the filing of these documents.

Very truly yours,

  
Jill S. Simon  
Legal Assistant

/def

13017-A

RECORDATION NO. \_\_\_\_\_ FILED 1426

MAR 27 1981 -4 02 PM

INTERSTATE COMMERCE COMMISSION

SOPAC81

Equipment Lease Agreement by and between a trust  
(created under the Trust Agreement dated as of  
January 1, 1981 between First Security State Bank and  
the beneficiaries thereof) and SOUTHERN PACIFIC  
TRANSPORTATION COMPANY

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Filed and recorded with the Interstate Commerce  
Commission pursuant to Section 20c of the Interstate  
Commerce Act on \_\_\_\_\_, 198\_ at  
\_\_\_\_\_ (A.M.)(P.M.), Recordation Number  
\_\_\_\_\_.

## EQUIPMENT LEASE AGREEMENT

1. PARTIES. The name and address of Lessor (herein called Lessor) is SOPAC81, a trust created under the Trust Agreement dated as of January 1, 1981 between First Security State Bank (acting not in its individual capacity but solely as owner-trustee) and the beneficiaries thereof, 79 South Main Street, Salt Lake City, Utah 84111, and the name, address and state of incorporation of Lessee (herein called Lessee) is Southern Pacific Transportation Company, One Market Plaza, San Francisco, California 94111, a Delaware corporation.

2. LEASING. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor upon the following terms and conditions, such items of equipment (the Unit or Units) as are described in the Schedule attached hereto as Annex "A" (hereinafter called the Schedule) and set forth in one or more Acceptance Supplements (in the form of Annex "B" attached hereto) executed by Lessor and Lessee and as are delivered to and accepted by Lessee on or before the Cut-Off Date as stated in the Schedule. Upon delivery of each Unit by the manufacturer or supplier thereof, Lessee as agent for Lessor will inspect such Unit, and if such Unit is found to be acceptable, and if the Lessor's Cost of such Unit, when added to the Lessor's Cost of all other Units previously delivered and accepted hereunder, does not exceed the Maximum Aggregate Lessor's Cost defined in the Schedule, Lessee on behalf of Lessor will accept delivery of such Unit under the Purchase Order relating thereto and immediately thereafter will execute and deliver to Lessor an Acceptance Supplement, and when executed by Lessor, such Unit shall be deemed to have been delivered to and accepted by Lessee under this Lease and shall be subject thereafter to all the terms and conditions of this Lease. Lessor authorizes Lessee, at Lessee's expense, to assert for Lessor's account, during the term of this Lease, so long as no default shall have occurred hereunder, all of Lessor's rights under any manufacturer's or any seller's warranty of the Units, and Lessor agrees to cooperate with Lessee in asserting such rights; provided, however, that Lessee shall indemnify and hold harmless Lessor from and against any and all claims, and all costs, expenses, damages, losses and liabilities incurred or suffered by Lessor in connection therewith, as a result of, or incident to, any action by Lessee pursuant to the above authorization. Any amount received by Lessor as payment under any warranty pursuant to the above authorization shall be applied to restore the Units to as good a condition as were or should have been when delivered to Lessee hereunder, ordinary wear and tear excepted, with the balance of such amount, if any, to be paid over to Lessee. Nothing contained in this Lease or in any related documents shall be deemed to give rise to any rights or remedies by any manufacturer or supplier of the Units.

3. TERM AND RENT. The Term with respect to each Unit shall commence on the date of delivery thereof (as stated in the Acceptance Supplement pertaining to such Unit), and shall continue for the period specified in the Schedule along with any renewal term, unless this Lease shall have been earlier terminated as herein provided. During the Term, Lessee agrees to pay to Lessor, Quarterly Rent and all other amounts as required by and to the extent set forth herein and in the Schedule.

All payments of Quarterly Rent and such other amounts shall be made so that Lessor shall have immediately available funds on the date payable hereunder, and shall be paid to Lessor at its address as set forth above or at such other address as Lessor may direct by notice in writing to Lessee. If State of Wisconsin Investment Board (the Lender) so consents in writing by written notice to Lessee, and in the absence of any event of default hereunder or the receipt by Lessee of written notice from the Lender

withdrawing such consent, Lessor may direct Lessee to make payments of Quarterly Rent directly to the Lender to the extent specified in such direction from lessor and approved by the Lender, and to pay any remainder of the Quarterly Rent payment to the Lessor in the manner as above indicated.

4. NO WARRANTIES BY LESSOR. LESSEE ACKNOWLEDGES AND AGREES (1) THAT EACH UNIT IS OF A SIZE, DESIGN, CAPACITY AND MANUFACTURE SELECTED BY LESSEE, (2) THAT AS BETWEEN LESSEE AND LESSOR, LESSEE IS SATISFIED THAT EACH UNIT IS SUITABLE FOR ITS PURPOSES, (3) THAT LESSOR IS NOT A MANUFACTURER OR INSTALLER THEREOF NOR A DEALER IN PROPERTY OF SUCH KIND AND (4) THAT LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE, ANY REPRESENTATION OR WARRANTY OR COVENANT OF ANY KIND OR CHARACTER WITH RESPECT TO THE UNITS OR THE DESIGN, VALUE, MERCHANTABILITY, FITNESS, CONDITION, QUALITY OF MATERIAL OR WORKMANSHIP OR CONFORMITY OF THE UNITS TO THE SPECIFICATIONS OF ANY PURCHASE ORDER RELATING THERETO, DURABILITY OR SUITABILITY OF THE UNITS IN ANY RESPECT OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION OR WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO. LESSOR SHALL HAVE NO RESPONSIBILITY OR LIABILITY TO LESSEE OR ANY OTHER PERSON WITH RESPECT TO ANY OF THE FOLLOWING: (i) ANY LIABILITY (INCLUDING, WITHOUT LIMITATION, STRICT OR ABSOLUTE LIABILITY IN TORT OR BY STATUTE IMPOSED), LOSS OR DAMAGE CAUSED OR ALLEGED TO BE CAUSED DIRECTLY OR INDIRECTLY BY THE UNITS OR BY ANY OTHER CIRCUMSTANCES IN CONNECTION THEREWITH, (ii) THE USE, OPERATION OR PERFORMANCE OF THE UNITS OR ANY RISKS RELATING THERETO, (iii) DELAY IN OBTAINING THE UNITS OR ANY INTERRUPTION OF SERVICE, LOSS OF BUSINESS OR ANTICIPATED PROFITS OR CONSEQUENTIAL DAMAGES, (iv) DELIVERY, INSTALLATION, OPERATION, SERVICING, MAINTENANCE, REPAIR, IMPROVEMENT OR REPLACEMENT OF THE UNITS OR (v) ANY OTHER DAMAGES WHATSOEVER AND HOWSOEVER CAUSED.

5. OBLIGATIONS OF LESSEE UNCONDITIONAL. This Lease is a net lease and Lessee acknowledges and agrees that Lessee's obligation to pay all Quarterly Rent and all other amounts required by and to the extent set forth herein and in the Schedule and the rights of Lessor in and to such Quarterly Rent and such other amounts shall be absolute and unconditional, and shall not be affected by any circumstance, including, without limitation, (i) any set-off, counterclaim, abatement, recoupment, reduction, defense, suspension or other rights of Lessee or the manufacturer or supplier of the Units for any reason whatsoever, (ii) any defect, design, condition, operation, fitness for purpose or use of, or any damage to or loss or destruction of, any Unit or any interruption or cessation in the use or the possession thereof by Lessee for any reason whatsoever, (iii) any insolvency, bankruptcy, reorganization or similar proceeding by or against Lessee or Lessor (including any anticipatory or actual rejection or breach of this Lease in whole or in part by any trustee or receiver of Lessee's or Lessor's assets or by court in any such proceeding) or (iv) any other circumstance, happening or event whatsoever, whether or not similar to the foregoing, including, without limitation, the invalidity, lack of enforceability or due authorization of this Lease or any provision hereof, or the existence of any mortgages, liens, security interests, charges, encumbrances or claims (hereinafter called Liens) or rights of others whatsoever with respect to the Units, whether or not resulting from claims against Lessor not related to the ownership of the Units.

6. TAXES AND LIENS. Lessee shall pay and discharge, and hold Lessor harmless from and against, all license and registration fees, all assessments and all taxes (including without limitation all sales, gross receipts, use, rental and property taxes) or similar charges, together with any penalties, fines or interest thereon which may now or hereafter be imposed upon the purchase, delivery, ownership, leasing, maintenance, possession or use of the Units, or upon this Lease, or the Quarterly Rent payments or other amounts due or to become due hereunder, excluding however, (i) all Federal taxes on or measured by Lessor's net income, (ii) any state and local taxes of the State of Wyoming (with respect to the interest of First Security Bank of Rock Springs in Lessor) and the State of Arizona (with respect to the interest of Valley Bank Leasing, Inc. in Lessor) measured by Lessor's net income, and (iii) any state and local taxes of any other states measured by Lessor's net income, but only up to an amount equal to the maximum corporate income tax rate in the State of Wyoming with respect to the interest of First Security Bank of Rock Springs in Lessor and in the State of Arizona with respect to the interest of Valley Bank Leasing, Inc. in Lessor, as if all the net income of Lessor resulting from this Lease were subject to the state tax of Wyoming or Arizona, as the case may be, without apportionment to any other state. Lessee shall not directly or indirectly, create, incur, assume or suffer to exist any Liens on, or attempt in any manner to dispose of, any of the Units and Lessee will take such action at its own expense as may be necessary to duly discharge each such Lien. In case any report or return is required to be made with respect to any obligation of Lessee under this Section, Lessee will either (after notice to Lessor) make such report or return in such manner as will show the ownership of the Units in Lessor and send a copy of such report or return to Lessor or will notify Lessor of such requirement and make such report or return in such manner as shall be satisfactory to Lessor.

7. INSURANCE. Lessee shall insure the Units to the extent and in the manner as set forth in the Schedule.

8. INSPECTION. Lessor shall have the right, but not the duty, to inspect the Units. Upon the request of Lessor, Lessee shall confirm to Lessor the location of each Unit and shall, at any reasonable time, make the Units, and Lessee's records pertaining to the Units, available to Lessor for inspection.

9. USE, MAINTENANCE AND ADDITIONS.

I. Use and Maintenance.

Lessee agrees that the Units will be used solely in the conduct of its business and in compliance with any and all statutes, laws, ordinances and regulations of any governmental agency applicable to the use of the Units, and will at all times be and remain in the possession and control of Lessee at the location(s) as set forth in the Schedule. Throughout the Term, the possession, use and maintenance of each of the Units shall be at the sole risk and expense of Lessee. Lessee, at its own cost and expense, will repair and maintain the Units so as to keep each Unit in as good condition as when delivered to Lessee hereunder, ordinary wear and tear excepted. In addition, Lessee shall maintain each Unit in such condition as will enable such Unit to perform the functions for which it was originally intended, and shall maintain each Unit in accordance with the specifications of the manufacturer of such Unit and in accordance with the standards prescribed by the Association of American Railroads and in any event according to those standards applied by

Lessee to equipment owned by it. Lessee will not, without prior written consent of Lessor and subject to such conditions as Lessor may impose for its protection, affix or install any Unit to or in any real property.

## II. Additions and Improvements.

(a) Generally. Except as may be required pursuant to Subsection (b) hereof, Lessee shall not, without the prior written approval of Lessor, which approval shall not be unreasonably withheld, make any addition or improvement to any Unit which is not readily removable without causing material damage to any Unit, unless such addition or improvement constitutes an "Improvement" which Lessee may finance pursuant to the provisions of Revenue Procedure 79-48 or any successor revenue procedure, revenue ruling or law. Lessee shall be entitled from time to time during the term of this Lease to acquire and install, at Lessee's expense, such additions or improvements to any Unit readily removable without causing material damage to any Unit and which do not impair the value or utility of any Unit as originally delivered hereunder to Lessee (ordinary wear and tear excepted).

(b) Compliance with Law. Lessee agrees to make, at its own expense and without offset for Rent due hereunder, any addition or improvement required to be made to any Unit in order to satisfy Lessee's obligations set forth in Section 9.I. hereof. Any such addition or improvement shall immediately and without further act become the property of Lessor.

(c) Severable Additions. Should Lessee install, at its own expense, any addition or improvement on any Unit which is readily removable without causing material damage to such Unit and which does not impair the value or utility of such Unit as originally delivered hereunder to Lessee (ordinary wear and tear excepted), and provided that no event of default or event which but for the lapse of time or the giving of notice or both would be an event of default, shall have occurred and be continuing, Lessee may remove such addition or improvement before such Unit is returned to Lessor, and Lessee shall thereafter own such addition or improvement. Lessee shall repair all damage to such Unit resulting from such installation and removal so as to restore such Unit to the condition in which it existed prior to the installation of such addition or improvement (ordinary wear and tear excepted). Notwithstanding the foregoing and provided that Lessee has not exercised its option to purchase such Unit pursuant to Section 19 hereof or to renew this Lease with respect to such Unit pursuant to Section 20 hereof, at the end of the applicable initial term or any renewal term of this Lease, Lessor shall be entitled to purchase from Lessee any such addition or improvement at its then Fair Market Value. If Lessor agrees, Lessee shall not be required to remove any such addition or improvement if the retention of such addition or improvement will not adversely affect the operating capabilities of such Unit in the possession of Lessor. Any addition or improvement not so removed shall become the property of Lessor.

(d) Nonseverable Additions. Should Lessee make to any Unit any addition or improvement which is not readily removable without causing material damage to such Unit, such addition or improvement shall immediately and without further act become the property of Lessor.

10. INDEMNIFICATION. Lessee shall indemnify Lessor against and hold Lessor harmless from any and all liabilities, losses, damages, injuries, penalties, claims, demands, actions, suits, costs and expenses including reasonable attorney's fees, and including but not limited to any of the foregoing arising or imposed upon the doctrine of strict liability or arising out of the manufacture, ordering, purchase, acceptance, lease, possession, operation, condition, return or use of the Units, or by operation of law. Lessee agrees that upon written notice by Lessor of the assertion of such a liability, loss, damage, injury, penalty, claim demand, action or suit, Lessee shall assume full responsibility for the defense thereof.

11. RETURN OF UNITS. Upon the expiration or termination of this Lease, Lessee, at its own expense, shall return the Units to Lessor pursuant to the terms set forth in the Annex to Schedule and in the condition in which the Units are required to be maintained pursuant to Section 9 hereof. The Units, upon redelivery pursuant hereto, shall be free and clear of all Liens, other than Liens which result from claims against Lessor which do not result or arise from the failure of Lessee to perform any of its obligations hereunder.

12. LOSS OR DAMAGE. In the event that any Unit is damaged so as to preclude its use for the purpose intended, lost, stolen or destroyed by any cause or requisitioned or appropriated by any governmental authority (each such occurrence being an Event of Loss), then Lessee shall pay on the Quarterly Rent Date (as set forth in the Schedule) immediately following such Event of Loss, the sum of (i) the Stipulated Loss Value specified in Annex "C" attached hereto, plus (ii) the installment of Quarterly Rent with respect to such Unit due on such Quarterly Rent Date. Upon receipt by Lessor of such Stipulated Loss Value and all Quarterly Rent and all other amounts due and payable pursuant to this Lease or as described in the Schedule with respect to such Unit, this Lease shall be deemed terminated as to such Unit and Lessee shall be entitled to receive any insurance proceeds with respect to such Unit up to the amount of the Stipulated Loss Value, if any, that Lessee has paid Lessor pursuant to this Section. Any excess of such proceeds or other sums over such amount, if any, paid by Lessee shall be remitted to Lessor. If such Unit has been damaged so as to preclude its use for the purpose intended, following payment of the Stipulated Loss Value of such Unit in accordance with the above provisions, Lessee shall either purchase such Unit (subject to Lessee retaining the purchase price up to the Stipulated Loss Value as described below) for an amount equal to the fair market value thereof or, as agent for Lessor, dispose of such Unit as soon as it is able to do so for the best price obtainable. Any such purchase or disposition shall be on an "as is, where is" basis without representation or warranty, express or implied. As to each Unit so purchased or disposed of, Lessee may, after paying Lessor the amounts specified above, retain all amounts of such purchase price from Lessee or sale proceeds from a third party, plus, any insurance proceeds received by Lessee by reason of such Event of Loss, up to the Stipulated Loss Value and Lessee's reasonable costs and expenses of disposition attributable thereto, and shall remit the excess, if any, to Lessor. Should any unit be damaged, so as not to preclude its use for the purpose intended, but be capable of repair, Lessee shall repair the same at its sole cost and expense and this Lease shall continue in full force and effect. Any proceeds from insurance received by Lessor in connection with any damage capable of repair shall be applied to the cost of repair, and Lessor agrees to release such proceeds to Lessee for such purpose upon receipt by Lessor of information indicating that such repair has been made in a manner satisfactory to Lessor.

13. EVENTS OF DEFAULT. (a) If Lessee shall default in the payment of any Quarterly Rent or any other amount due and payable hereunder or pursuant to the

Schedule within 10 days after the same shall become due, or (b) in the event Lessee fails to perform any other term, provision or condition in this Lease or in any document or certificate furnished by Lessee in connection herewith within 30 days after Lessor shall have demanded in writing performance thereof, or (c) if any representation or warranty made by Lessee herein or in any document or certificate furnished to Lessor in connection herewith shall prove to have been incorrect in any material respect when any such representation or warranty was made or given hereunder or thereunder, or (d) if any proceeding in bankruptcy, reorganization, receivership or insolvency shall be commenced by or against Lessee or Lessee's property or assets, or (e) if Lessee makes an arrangement, extension, bulk transfer or any assignment for the benefit of one or more of Lessee's creditors, or (f) if Lessee seeks relief under any other law providing for the relief of debtors, then, if and to the extent permitted by applicable law, Lessor shall have the right to exercise any one or more of the remedies set forth below.

14. **REMEDIES.** Upon the occurrence of any event of default and at any time thereafter Lessor may, at its option, declare this Lease to be in default and at any time thereafter Lessor may do any one or more of the following with respect to the Units as Lessor in its sole discretion shall elect, to the extent permitted by, and subject to compliance with any mandatory requirements of, applicable law then in effect: (a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; (b) by notice in writing terminate this Lease, whereupon all rights of Lessee to the use of the Units shall absolutely cease and terminate but Lessee shall remain liable as hereinafter provided; and thereupon Lessee, if so requested by Lessor, shall at its expense promptly return the Units to the possession of Lessor and in the condition required upon the return thereof pursuant to and in accordance with the terms hereof, or Lessor, at its option, may enter upon the premises where the Units are located and take immediate possession of and remove the same by summary proceedings or otherwise. Lessee shall, without further demand, forthwith pay to Lessor an amount equal to any unpaid Quarterly Rent and all other amounts due and payable hereunder or pursuant to the Schedule for all periods up to and including the Quarterly Rent Date following the date on which Lessor has declared this Lease to be in default, plus, an amount equal to the Stipulated Loss Value of the Units, computed as of the Quarterly Rent Date following the date on which Lessor has declared this Lease to be in default. Following the return of the Units to Lessor pursuant to this Section, Lessor shall proceed to sell or lease the Units in such manner as it shall deem appropriate. In the event of the sale of the Units, the proceeds of such sale shall be applied by Lessor (A) first, to all costs, charges and expenses including reasonable attorney's fees and disbursements, incurred by Lessor as a result of the default and the exercise of its remedies with respect thereto and (B) second, provided that Lessee has paid to Lessor all the amounts required to be paid to Lessor pursuant to this Section, to reimburse Lessee for the Stipulated Loss Value previously paid by Lessee. Any surplus remaining thereafter shall be retained by Lessor. No remedy referred to in this Section is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity; and the exercise or beginning of exercise by Lessor of any one or more of such remedies shall not preclude the simultaneous or later exercise by Lessor of any or all of such other remedies. No express or implied waiver by Lessor of any default shall in any way be, or be construed to be, a waiver of any future or subsequent default. To the extent permitted by applicable law, and except with respect to Lessor's obligation to Lessee upon the sale of the Units as provided above, Lessee hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to mitigate Lessor's damages as set forth in this Section or which may otherwise limit or modify any of the Lessor's rights and remedies under this Section. Lessee also shall be liable for all damages and expenses, including

reasonable attorney's fees, in addition to the amounts referred to in this Section which Lessor shall have sustained as a result of the breach of one or more of the representations, warranties and covenants made by Lessee in this Lease.

15. ASSIGNMENT. Without Lessor's prior written consent, Lessee shall not assign, transfer, sublet, pledge, hypothecate or otherwise dispose of this Lease or the Units or any interest herein or therein. Lessor may assign this Lease in whole or in part and without notice to Lessee, and such assignee shall have all of the rights, but none of the obligations, of Lessor under this Lease. Lessee shall recognize each such assignment and covenants not to assert against such assignee any defense, counterclaim or set-off that Lessee has or may have against Lessor, and upon receipt of notice of such assignment, Lessee agrees to pay Quarterly Rent and other payments due and to become due hereunder to such assignee.

16. LESSEE'S REPRESENTATIONS. Lessee covenants, represents and warrants that (a) Lessee is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, is duly qualified to do business in each jurisdiction where the Units are or are to be located, and has full corporate power and authority to enter into and perform the obligations imposed upon Lessee under this Lease; (b) the execution, delivery and performance of this Lease have been duly authorized by all necessary corporate action on the part of Lessee, are not inconsistent with its Certificate of Incorporation or Bylaws, do not contravene any law, governmental rule, regulation, or order binding on Lessee, do not and will not contravene any provision of or constitute a default under any indenture, mortgage, contract or other instrument to which Lessee is a party or by which it is bound, and, upon execution and delivery of this Lease, this Lease will constitute a legal, valid and binding obligation of Lessee enforceable in accordance with its terms; (c) neither the execution and delivery by Lessee of this Lease nor the consummation of any of the transactions contemplated hereby require the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any Federal, state or foreign governmental authority or agency; (d) neither the execution and delivery by Lessee of the Lease nor the consummation of any of the transactions contemplated hereby will cause any third party claiming by, under, through or against Lessee (whether a secured party, lienholder, mortgagee or other third party) to acquire any right, title, interest or claim in, to or against this Lease or the Units; and (e) at the commencement of the Term for any Unit, no improvement to such Unit is required in order to render such Unit complete for its intended use by Lessee.

17. INCOME TAXES. Lessee represents that Lessor shall be entitled (i) to the maximum deduction for depreciation (the "Depreciation Deduction") allowed pursuant to Section 167 of the Internal Revenue Code ("Code") as computed in accordance with the Lessor's Cost, salvage value, depreciation method and depreciable life of each Unit as such cost, value, method and lives are set forth in the Schedule, and (ii) to the investment tax credit allowed pursuant to Section 38 and related sections of the Code in an amount equal to one-third (1/3) of ten percent (10%) of the Lessor's Cost of the Group 3 Units, as described in the Schedule, and two-thirds (2/3) of ten percent (10%) of the Lessor's Cost of the Group 6 Units, as described in the Schedule (the "Investment Credit"). If as a direct or indirect result, in whole or in part, of any act or failure to act of Lessee (including but not limited to, any breach of a representation, warranty, covenant or agreement made herein or in any Acceptance Supplement) (i) Lessor shall lose, shall not have, shall lose the right to claim, shall suffer a disallowance of or shall be required to recapture all or a portion of the Depreciation Deduction or the Investment Credit, or (ii) Lessor shall be required to recognize an amount of rental income greater

than the amount specified to be payable under this Lease (any such loss, disallowance, recapture, unavailability or recognition hereinafter being referred to as a Loss of Benefits) then: (a) Lessee shall (with respect to each and every occurrence of a Loss of Benefits), on each Quarterly Rent Date occurring after Lessor has notified Lessee of such Loss of Benefits, pay Lessor an amount which (after taking into account all Federal, state and local taxes which are or will be required to be paid by, or if previously paid not refunded to, Lessor for any taxable year as a result of the receipt thereof) will maintain Lessor's net after tax return on investment and periodic net cash flows at the same rate and amount which were implicit in the Quarterly Rent prior to the occurrence of any Loss of Benefits; and (b) Lessee shall pay to Lessor upon being notified thereof an amount which, after subtracting all net Federal, state and local taxes which are or will be required to be paid by, or if previously paid not refunded to, Lessor for any taxable year as a result of the receipt thereof, shall be equal to the amount of any interest or penalties which may be assessed against Lessor with respect to any such Loss of Benefits. A Loss of Benefits shall be determined to have occurred upon: (1) issuance of a written opinion by independent tax counsel mutually selected by Lessor and Lessee; or (2) a reasonable and good faith agreement with the Internal Revenue Service by Lessor with respect to a Loss of Benefits (provided that Lessor shall give Lessee twenty (20) days' written notice of any proposed agreement and such information reasonably requested by Lessee with respect thereto); or (3) payment of taxes, interest or penalties with respect to a Loss of Benefits (provided that Lessor shall give Lessee twenty (20) days' written notice of any proposed payment, other than any payment pursuant to clauses (2) or (4) of this sentence, and such information reasonably requested by Lessee with respect thereto, and by such payment Lessor shall not abandon any meritorious defense against any claim by the Internal Revenue Service if Lessee has provided Lessor with an opinion of counsel reasonably satisfactory to Lessor to the effect that a meritorious defense exists); or (4) any court decision (including a decision of the Tax Court of the United States) which is not appealed with respect to a Loss of Benefits. The indemnities contained in this Section shall survive the expiration or termination of this Lease. References in this Section to specific Sections of the Code shall be deemed to include comparable sections or provisions enacted after the date hereof or contained in any successor law.

18. CONDITIONS OF LESSOR. The obligation of Lessor to consummate this Lease is subject to the performance by Lessee of all of its obligations hereunder and to the satisfaction of each of the following further conditions on or prior to the date on which the first Unit is delivered to and accepted by Lessee: (a) Lessor shall have received an opinion of counsel for Lessee, dated the date hereof in form and substance satisfactory to Lessor; (b) Lessee shall have taken all corporate action necessary to authorize and consummate this Lease; and (c) Lessee shall have executed and delivered to Lessor such documents as Lessor shall deem necessary to protect its interest hereunder and its title to the Units.

19. OPTION TO PURCHASE. Provided that this Lease has not been earlier terminated and that no default under this Lease has occurred and is continuing, Lessee may, according to the provisions set forth in the Annex to Schedule, elect to purchase any of the Units at the end of the Term or any renewal term pertaining thereto for a purchase price equal to the Fair Market Value of such Units at the end of such term. Fair Market Value shall mean and shall be determined on the basis of and shall be equal in amount to the value which should obtain in an arm's length transaction between an informed and willing buyer-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell. Such Fair Market Value is to be determined by agreement between Lessor and Lessee, or,

if they cannot agree, by an independent appraiser selected by Lessor but satisfactory to Lessee. The determination so made shall be binding upon both Lessor and Lessee. The cost of any such appraisal shall be borne by Lessee.

20. OPTION TO RENEW. Provided that this Lease has not been earlier terminated and that no default under this Lease has occurred, Lessee may, according to the provisions set forth in the Annex to Schedule, elect to renew this Lease with respect to any of the Units at the end of the Term for a renewal term of one year and for the renewal term rent which shall be paid in the same manner and times as the Quarterly Rent during the initial Term and shall be equal to the Fair Market Rental Value. Fair Market Rental Value shall mean and shall be determined on the basis of and shall be equal to the rent of such Units in arm's length transaction between an informed and willing lessee (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease. Such Fair Market Rental Value is to be determined by agreement between Lessor and Lessee, or, if they cannot agree, by an independent appraiser selected by Lessor but satisfactory to Lessee. The determination so made shall be binding upon both Lessor and Lessee. The cost of any such appraisal shall be borne by Lessee.

21. REPORTS. Within ninety (90) days after the close of each fiscal year of Lessee, Lessee shall provide Lessor, Valley Bank Leasing, Inc., c/o Valley National Bank, 234 North Central, Suite 522, Phoenix, Arizona 85004, Attention of Allen E. Wilson and First Security Bank of Rock Springs, 79 South Main Street, Salt Lake City, Utah 84111, Attention of C. S. Cummings, with copies of Lessee's annual financial statements.

22. MISCELLANEOUS. The terms of this Lease shall not be waived, altered, modified, amended, supplemented or terminated in any manner whatsoever except by written instrument signed by Lessor and Lessee. This Lease shall be binding upon and inure to the benefit of Lessor, and its successors, assigns, and agents, and Lessee and its successors. This Lease may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall together constitute but one and the same instrument. Fully executed counterparts shall be delivered to and retained by the Lessor, with the Lessee receiving a fully executed counterpart of this Lease. Lessee shall execute and deliver to Lessor from time to time, such other documents, instruments and further assurances, including financing statements, and take all other action as may be reasonably necessary, proper or desirable to carry out and consummate the transaction referred to herein. All agreements, representations and warranties contained in this Lease, or in any document or certificate delivered pursuant hereto, or in connection herewith, shall survive the execution and delivery of this Lease and the expiration or other termination of this Lease. This Lease shall constitute an agreement of lease, and nothing herein shall be construed as conveying to Lessee any right, title or interest in any Unit except as lessee only, and title in and to the Units shall remain in Lessor exclusively. This Lease shall be construed in accordance with, and shall be governed by, the laws of the State of California. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. To the extent permitted by applicable law, Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect. If Lessee fails to make any payment or fails to perform or comply with any of its agreements contained herein, Lessor may itself make such payment or perform or comply with such

agreement, and the amount of such payment and the amount of the reasonable expenses incurred by Lessor in connection with such payment or the performance or compliance with such agreement, as the case may be, together with interest thereon at the rate of [REDACTED] per annum, shall be deemed additional rent, payable by Lessee on demand. In addition, Lessee also agrees to pay Lessor interest at the rate of [REDACTED] per annum on any part of any installment of Quarterly Rent or other amounts due and payable under the Lease or the Schedule not paid when due for any period for which the same shall be overdue. Service of all notices under this Lease shall be sufficient if given personally or mailed to the party involved at its respective address set forth above, or at such other address as said party may provide in writing from time to time. Any such notice mailed to said address shall be effective when deposited in the United States mail, duly addressed and with postage prepaid.

IN WITNESS WHEREOF, LESSEE HAS HEREBY EXECUTED THIS LEASE AS OF THE 1st DAY OF JANUARY, 1981.

LESSOR: SOPAC81, a trust created under the Trust Agreement dated as of January 1, 1981 between First Security State Bank (acting not in its individual capacity but solely as owner-trustee) and the beneficiaries thereof

LESSEE: SOUTHERN PACIFIC  
TRANSPORTATION COMPANY

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: 

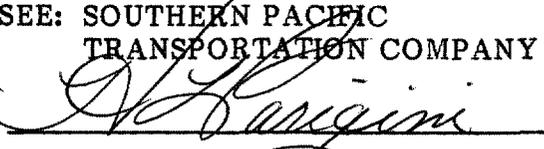
Its: Trust Officer

agreement, and the amount of such payment and the amount of the reasonable expenses incurred by Lessor in connection with such payment or the performance or compliance with such agreement, as the case may be, together with interest thereon at the rate of [REDACTED] per annum, shall be deemed additional rent, payable by Lessee on demand. In addition, Lessee also agrees to pay Lessor interest at the rate of [REDACTED] per annum on any part of any installment of Quarterly Rent or other amounts due and payable under the Lease or the Schedule not paid when due for any period for which the same shall be overdue. Service of all notices under this Lease shall be sufficient if given personally or mailed to the party involved at its respective address set forth above, or at such other address as said party may provide in writing from time to time. Any such notice mailed to said address shall be effective when deposited in the United States mail, duly addressed and with postage prepaid.

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LESSEE: SOUTHERN PACIFIC  
TRANSPORTATION COMPANY

By: 

Its: ASST. VICE PRESIDENT - PURCHASING

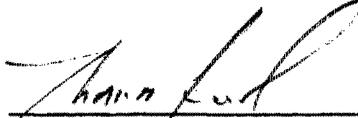
By: \_\_\_\_\_

Its: \_\_\_\_\_

CERTIFICATE

This is to certify that the attached Equipment Lease Agreement dated as of January 1, 1981 by and among the parties listed on the cover page of such document is a true and correct counterpart copy of such document and pursuant to the terms thereof has appended thereto the counterpart signatures of such parties thereto.

IN WITNESS WHEREOF, I have hereunto set my hand this 27<sup>th</sup> day of March, 1981.

  
\_\_\_\_\_  
Thomas Ford

STATE OF OHIO            )  
                                  ) SS:  
COUNTY OF CUYAHOGA)

On this 27<sup>th</sup> day of March, 1981 before me personally appeared Thomas Ford, to me personally known, who, being by me duly sworn, says that he is one of the attorneys involved in the transaction described in the accompanying document and the statements made in the foregoing Certificate are true and correct to the best of his knowledge and belief.

  
\_\_\_\_\_  
Notary Public

ALAN DORIS, Attorney At Law  
Notary Public - State of Ohio  
My commission has no expiration date.  
Section 147.03 R. C.

ANNEX "A"

Schedule

Description of Units

The Group 3 Units are:

Personnel Carriers (Gas and Electric)  
Speed Trucks (Electric)  
Flatbed Yard Haulers (Gas and Electric)

Maximum Lessor's Cost, Group 3 Units:       \$ 100,000

The Group 6 Units are:

Spike Pullers	Spike Drivers
Ballast Regulators	Gager-Spikers
Power Liners	Switch Tampers
Rail Lifters	Crib Reducers
Tie Removers	Tie Remover/Inserters
Scarifier-Inserters	Brush Cutters
Tie Cranes	Multiple Tampers and other
Fork Lift Trucks (Gas and Electric)	Track Maintenance Equipment

Maximum Lessor's Cost, Group 6 Units:       \$6,650,000

Maximum Aggregate Lessor's Cost:       \$6,750,000

Cut-Off Date

December 20, 1981.

Term

The Term for each Unit shall commence on the date of delivery of such Unit (as stated in the Acceptance Supplement pertaining thereto). In the case of a Group 3 Unit, the Term shall end 3 years after the Commencement Date (as defined below) pertaining to such Unit. In the case of a Group 6 Unit, the Term shall end 6 years after the Commencement Date (as defined below) pertaining to such Unit.

### Quarterly Rent

Quarterly Rent for each Unit shall begin on the Commencement Date pertaining to such Unit, shall be payable quarterly in arrears on each Quarterly Rent Date and shall be computed by multiplying the Lessor's Cost of such Unit by the applicable percent below:

<u>Group</u>	<u>No. of Quarterly Rent Payments</u>	<u>% of Lessor's Cost</u>
3	12	[REDACTED]
6	24	[REDACTED]

### Quarterly Rent Date

The Quarterly Rent Dates shall be the 1st day of each April, July, October and January during the Terms of the Lease.

The Commencement Date for the lease of each Unit will be the Quarterly Rent Date immediately following the date of delivery of such Unit (as stated in the Acceptance Supplement pertaining thereto).

### Other Rent

In addition to the Quarterly Rent and the other amounts required to be paid by Lessee pursuant to the Lease and this Schedule, Lessee shall pay Lessor (i) [REDACTED]  
[REDACTED]  
[REDACTED] (ii) holdover rent which shall be an amount equal to one-ninetieth (1/90) of the renewal term rent (as determined pursuant to the Annex hereto) for each Unit in each case to be paid for each Unit for each day between the date of termination of the Term as to such Unit and the date of return of such Units pursuant to the terms of the Lease and this Schedule.

### Insurance

Lessee shall self-insure the Units under the Lease for property damage, loss and casualty to the extent of and in the manner that Lessee self-insures equipment owned by Lessee (Lessee hereby warranting and representing that Lessee does in fact self-insure equipment owned by Lessee). Lessee will, at its own expense, cause to be carried and maintained public liability insurance with respect to the Units comparable in amounts and against risks customarily insured against by Lessee in respect of similar equipment owned by it. Any policies of public liability insurance carried in accordance with this paragraph shall (i) require thirty (30) days prior notice of cancellation to Lessor, and (ii) name Lessor, Valley Bank Leasing, Inc. and First Security Bank of Rock Springs as additional insureds as their respective interests may appear.

### Locations

Pursuant to Paragraph 9 of the Lease, the Units may be used by Lessee in any of the following 14 states in which Lessee carries on operations:

California	Utah	Arizona	Louisiana	Tennessee
Oregon	Illinois	Kansas	Missouri	Arkansas
Nevada	New Mexico	Texas	Oklahoma	

## Return of Units

Pursuant to Paragraph 11 of the Lease, each Unit shall be returned to Lessor, at Lessee's expense ready for shipment, F.O.B. to the railhead/rail loading point on Lessee's lines of railroad as designated by Lessor.

## Income Taxes

### Lessor's Cost

The Lessor's Cost for each Unit shall be as specified in the Acceptance Supplement pertaining thereto and shall be deemed to be set forth herein.

### Salvage Value

██████ of Lessor's Cost

### Depreciation Method

Double declining balance method switching to sum of the years digits without consent of the Commissioner of Internal Revenue as is appropriate for new Section 38 property.

### Depreciable Lives

Depreciable life for each Unit in Group 3 ██████████, and for each Unit in Group 6 ██████████

LEASE EXPIRATION PROCEDURE

1. Approximately six (6) months prior to expiration of the Lease, SOPAC81 will notify Lessee of the following options available for Units coming off lease:
  - Purchase Units - SOPAC81 to advise purchase price at Fair Market Value.
  - Renew Lease - SOPAC81 to advise renewal term and rate at Fair Market Rental Value.
  - Surrender Units to SOPAC81.
2. At least three (3) months prior to expiration of lease, Lessee will advise SOPAC81 of the option it chooses.
3. In the event an election to purchase is made, Lessee will issue a purchase order to SOPAC81 who, in turn, will send invoice for the purchase price.
4. In the event Lessee elects to renew lease, SOPAC81 will invoice periodically pursuant to its standard billing procedure at the renewed rate.
5. In the event Lessee elects to surrender the Units, SOPAC81 will be notified by letter, at least thirty (30) days prior to the time Units are actually available to arrange for disposition. If Units will not be available until after expiration of the original lease term, SOPAC81 will invoice Lessee for holdover rent based on the quoted renewal rates from the expiration date of lease until the date the Units are actually delivered by Lessee. This will permit utilization of Units until replacement arrives.
6. Lessee shall transport at the request of Lessor and at the expense of Lessee any Units surrendered to Lessor to such location on Lessee's lines of railroad as Lessor may designate.
7. SOPAC81 will provide Lessee, on a quarterly basis, with a report regarding the status of Acceptance Supplements on which action remains to be taken.
8. Each Unit which is surrendered shall be in as good condition as when delivered to Lessee under the lease, ordinary wear and tear excepted, and in such condition as will enable such Unit to perform the functions for which it was originally intended.

ANNEX "B"

ACCEPTANCE SUPPLEMENT

Supplement No. \_\_\_\_\_

Date \_\_\_\_\_

THIS ACCEPTANCE SUPPLEMENT is executed pursuant to that certain Equipment Lease Agreement (Lease) dated as of January 1, 1981 between SOPAC81 and Southern Pacific Transportation Company.

The terms used herein shall have the meaning given to such terms in the Lease.

Lessee hereby confirms that the Unit described below has been delivered as of this date and that the Term of the Lease with respect to such Unit shall be as provided below and in the Lease and Schedule thereto.

Lessee confirms that, at the time of delivery set forth in this Acceptance Supplement, (a) such Unit has been examined by duly appointed and authorized representatives of Lessee; (b) such Unit was duly accepted by Lessee as a Unit for leasing under the Lease; (c) such Unit became subject to and governed by the terms of the Lease; and (d) Lessee became obligated to pay to Lessor the Quarterly Rent and all other amounts provided for in the Lease and the Schedule with respect to such Unit.

Lessee represents and warrants that the Unit covered hereby is new Section 38 property and was not placed in the service of Lessee or otherwise used by Lessee prior to delivery and acceptance of such Unit under the Lease.

Lessee further represents and warrants that (i) no default or event which, with the giving of notice or the lapse of time, or both, would become such a default under the Lease has occurred and is continuing; and (ii) the representations and warranties of Lessee contained in the Lease are true and correct on and as of the date hereof.

SOPAC81 (Lessor)

Southern Pacific Transportation  
Company (Lessee)

By \_\_\_\_\_

By \_\_\_\_\_

PURCHASE ORDER NO. \_\_\_\_\_

DESCRIPTION \_\_\_\_\_

IDENTIFICATION OR SERIAL NO. \_\_\_\_\_

VENDOR \_\_\_\_\_

LOCATION \_\_\_\_\_

LESSOR'S COST \_\_\_\_\_ RENT \_\_\_\_\_

TERM \_\_\_\_\_

(Stipulated Loss Values are to be paid in addition to Quarterly Rent, other Rent and other amounts payable under the Lease and the Schedule)

EXHIBIT C

Stipulated Loss Values

(as % of Lessor's Cost)

Three-Year Term

Six-Year Term

Quarterly Rent  
Payment Number

SLV

Quarterly Rent  
Payment Number

SLV

Commencement  
Date

Commencement  
Date

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12

[REDACTED]

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

[REDACTED]

In the event that the Lessor shall lose, shall not have, shall lose the right to claim, shall suffer a disallowance of or shall be required to recapture all or a portion of the Investment Tax Credit as a result of an Event of Loss (as defined in the Lease) or upon the occurrence of any default under the Lease and the exercise of remedies pursuant thereto, Lessee shall, in addition, pay to Lessor the following amounts:

ITC Lost, Disallowed  
or Recaptured

Percent of  
Lessor's Cost

One-Third  
Two-Thirds